

TOWN OF WESTFIELD
GENERAL ORDINANCE NO.2045

"AN ORDINANCE AMENDING ARTICLE 11.32 NS-AMFH TOD ZONING DISTRICT OF THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD"

WHEREAS, on February 6, 2015, the Superior Court of New Jersey (Honorable Thomas J. Walsh, J.S.C.) entered an Order Amending the 2013 Judgment of Compliance and Repose in Mount Laurel affordable housing litigation entitled Sunnyside Senior Housing of Westfield, LLC v. Town of Westfield, et.al., Docket No. UNN-L-135-09 (the "litigation"), which Court Order approved, inter alia, (1) the Amended 2013 Housing Plan Element and Fair Share Plan (the "Amended 2013 HPE&FSP"); and (2) the ordinances which modify the zoning district boundaries of the NS-AMFH Zone and amend Town Ordinance Article 11.32 of the Land Use Ordinance of the Town of Westfield, which governs the NS-AMFH Zone as to the affordable housing site known as the "New Street TOD site", to (1) permit the downsizing of the New Street TOD site; (2) modify the zoning district boundaries of the NS-AMFH Zone, and (3) increase the density of the development on the downsized New Street TOD site to provide for sixty-eight (68) housing units, with a 10% set aside (consisting of sixty-one (61) market rate units and seven (7) affordable units); and

WHEREAS, on April 1, 2015 the Superior Court of New Jersey (Honorable Thomas J. Walsh, J.S.C.) entered a Consent Order modifying the February 6, 2015 Order, which Consent Order directed the Town Council of the Town of Westfield and the Westfield Planning Board to amend the Amended 2013 HPE&FSP to incorporate an increase in the density of the development on the downsized New Street TOD site to seventy (70) rental housing units, with a 13% set aside (consisting of sixty-one (61) market rate units and nine (9) affordable units), and to incorporate certain waivers from the strict application of certain provisions of the Uniform Housing Affordability Controls Regulations (N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, the Town Council is desirous of amending Article 11.32 of the Town's Land Use Ordinance in accordance with the Consent Order; and

WHEREAS, the Planning Board has amended the Amended 2013 HPE&FSP and made recommendations on certain amendments to Article 11.32 of the Town's Land Use Ordinance to increase the opportunity to provide affordable housing on properties located within that zone;

BE IT THEREFORE ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, IN THE COUNTY OF UNION AND THE STATE OF NEW JERSEY, AS FOLLOWS:

I. Article 11.32 is hereby amended in its entirety to read as follows:

ARTICLE 11.32

**NEW STREET AFFORDABLE MULTI-FAMILY HOUSING (NS-AMFH)
TRANSIT ORIENTED DEVELOPMENT (TOD) ZONING DISTRICT**

§11.32 NS-AMFH New Street Affordable Multi-Family Housing Transit Oriented Development District.

- A. **Purpose and Intent.** The purpose of this article is to supplement Article 11 of the Code of the Town of Westfield in such a manner as to provide for the realistic opportunity for the development of affordable housing for households of low and moderate income, as required by Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and consistent with the 2013 Housing Element Plan and Fair Share Plan (HPE&FSP). These regulations are intended to implement the 2013 HPE&FSP.
- B. **Applicability and re-zoning.** These regulations shall apply to the following properties:
- Block 3208, Lot 1.02 and Block 3207, Lots 1 and 4 all as shown on the Official Tax Map of the Town of Westfield and a portion of New Street to be vacated by the Town consisting of 8,713 square feet, all of which is currently designated as NS-AMFH on the Zoning Map of the Town of Westfield.
- C. **Principal uses and structures.** The following principal uses and structures shall be permitted in the NS-AMFH zone district:
1. multi-family residences as defined in Article 2; and,
 2. private open space, private parks and playgrounds.
- D. **Accessory uses and structures.** The following accessory uses and structures shall be permitted in the NS-AMFH zone district:
1. Parking and underground parking facilities as regulated herein.
 2. Signs as regulated in Article 16; and
 3. Accessory uses and structures customarily subordinate and incidental to permitted principal uses and shall include building lobbies, community rooms, fitness rooms, laundries and roof terraces.
- E. **Prohibited uses and structures.** Any uses or structures, other than those uses or structures permitted in subsection C through D above, are prohibited.

- F. **Bulk and lot regulations.** Development of property within this zone shall be substantially in conformance with the attached Exhibits B - Concept Development Plan and C - Architectural Renderings, including without limitation in terms of building footprint, building height, architectural design, building façade materials and the amenities displayed thereon, and shall comply with all standards outlined in this Article 11.32. The following bulk and lot regulations shall apply to all developments within the NS-AMFH zone district:

1. Minimum tract area. The tract area shall be a minimum of 62,000 square feet and a maximum 68,000 square feet.
2. Density. The total number of residential units shall not exceed 70 units.
3. Lot frontage. There shall be a minimum lot frontage along South Avenue E. of 200 feet.
4. Building heights and setbacks. Building heights and building setbacks shall comply with the following:

Regulations*	MIN. BLDG. SETBACK**	BLDG. HEIGHT***	STREET
Front Lot Line (red)	20ft. from Curb 15ft. from prop. line	32 ft. 42 ft.	South Avenue E.
Street Side Lot Line (orange)	20 ft. from curb 15ft. from prop. line	32 ft. 42 ft.	Central Avenue
Front Lot Line (blue)	10 ft.	n/a	S. Elmer Street
Front Lot Line (blue)	10 ft.	42 ft.	New Street
Side lot Line (yellow)	15 ft.	42 ft.	N/A
Side Lot Line (green)	10 ft.	32 ft.	N/A
Rear Lot Line (black)	5 ft.	32 ft.	N/A
Street Intersection Plaza	50 ft. to above ground buildings	42 ft.	Central and South Avenues

*Curb and Lot line designations are color coded as identified on Exhibit A, Map of Curb and Lot Line Designations NS-AMFH zone district.

**Building setbacks along South and Central Avenues shall be not less than twenty (20) feet from the curb line, and in no event shall the setback be less than fifteen (15) feet from future right of way line resulting from the installation of a right turn lane on South Avenue.

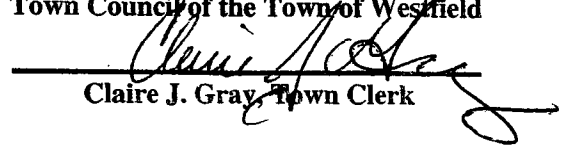
***Building height limits are based upon Exhibit B Concept Development Plan NS-AMFH zone district. The associated minimum building setback limits are relative to the building height, except that along county roads a minimum 20 foot building setback from the curb and a 15 foot setback from the property line, is required. Building height is the vertical distance from the average roof height to the average proposed elevation of normal grade level at the base of the building or structure. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating which deviates from the grade in the general vicinity of the site.

5. Overall building height. The maximum overall building height shall average 37 feet, excluding tower and parapets.
6. Street plaza. The street plaza, as depicted on Exhibit B shall have a minimum depth of fifty (50) feet measured at a right angle from the Central Avenue curb line to the front entrance to the building, with a minimum square footage of five thousand seven hundred fifty (5,750) square feet and comprised of a maximum forty percent (40%) hardscape and the remainder green space, said design subject to Planning Board approval.
7. Bell tower. The bell tower as depicted on Exhibit C shall have a height to the top of the tower of sixty two (62) feet, with a maximum height to the bell tower roof peak of seventy (70) feet.
8. Parapets. The roof parapets shall be located substantially in conformance with Exhibit c and shall not exceed a height above roof level of three feet six inches (3ft 6in) at the building front facade along South and Central Avenue intersection at the street plaza, and a combination eight feet six inches (8ft 6in) along the front facade at the street plaza, and three feet six inches (3ft 6in) along the Central Avenue front facade. Parapets shall not be included in the calculation of building height.
9. Open space. The front yard along South Avenue and the street side yard along Central Avenue, excluding the street plaza, shall be left open space and landscaped, except for an ornamental wrought iron fence separating the public way from the private property, to be approved by the Planning Board.

- G. **Parking.** All parking shall be located on site and shall be underground and/or covered completely, with the exception of a maximum of 10 surface parking spaces. Parking shall be prohibited within all minimum front and side street yards. All parking shall be screened and shall not be visible from South and Central Avenues. The surface parking spaces shall be screened by a solid decorative wall, maximum 4 foot in height to block headlight glare onto adjacent properties. All parking and driveway improvements shall comply with the provision of the Residential Site Improvement Standards (RSIS), except that the minimum number of parking spaces shall be governed by the CBD and GB-1 standards of Section 17.02C 1.g. In addition, development of all property within this zone shall be in compliance with the following provisions of Article 17 of the Town of Westfield Land Use Ordinance §§ 17.05 B and C, 17.06, 17.07, 17.08, 17.09, 17.10, 17.12 and 17.13.
- H. **Affordable Housing Component.** There shall be an inclusionary affordable housing component consisting of nine (9) residential units, complying with all standards of Article 23 of the Town of Westfield Land Use Ordinance, except as provided in Section 11.32N.
- I. **Residential restrictions on South Avenue.** There shall be no residential units on the first floor facing the front yard along South Avenue. The first floor shall only be used for common areas and facilities for the residents of the building.
- J. **Roof Top HVAC Equipment.** Said equipment height shall not exceed seven (7) feet above the roof height of the building. Said units shall be adequately screened from view to the satisfaction of the Planning Board.
- K. **Maximum coverage by buildings and above-grade structures.** No more than fifty (50%) of the tract area shall be covered by multi-family buildings and above-grade structures. Earthen flood detention basins as defined herein shall not be considered as a building or structure for purposes of computing this coverage.
- L. **Maximum coverage by improvements.** No more than seventy percent (70%) of the area of the tract shall be covered by physical improvements, including but not limited to buildings; above-grade structures; and at-grade structures including sidewalks, parking areas, patios, driveways, swimming pools, etc. It is the intention of this provision that at least thirty percent (30%) of the tract area shall not have any improvements except vegetation. Earthen flood detention basins as defined herein shall not be considered as a building, structure or improvement for purposes of computing this coverage.

- M. **Screening.** Wherever development in the NS-AMFH zone district abuts an adjoining property that has located thereon a single-family detached or two-family dwelling, there shall be a screened buffer by landscaping, fencing or other means as approved by the Planning Board.
- N. **Affordability regulations.** Any inclusionary developments in the NS-AMFH zone district must comply with all applicable regulations of the affordable housing regulations of Article 23 and the New Jersey Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq. and COAH regulations N.J.A.C. 5:97-1 et seq. except that of the nine (9) affordable units, the bedroom distribution shall be four (4) two-bedroom units and five (5) one-bedroom units; and, the low/moderate income split of the units shall be five (5) moderate income units, and four (4) low-income units (which low-income units shall consist of three (3) low-income units and one (1) very-low income unit).
- O. **General provisions.** In addition to the above requirements, any development in the NS-AMFH zone district shall comply with all applicable provisions of this ordinance and including but not limited to the general provisions of Article 12, except that underground parking shall be allowed to encroach within all plaza and minimum building setback areas.
- II. **Effective Date.** The within new Article 11.32 of the Land Use Ordinance shall not become effective until proper passage and publication in accordance with law.
- III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

This is to certify that the within Ordinance is
a true and exact copy of the Ordinance adopted
on 5/12/15 by the
Town Council of the Town of Westfield


Claire J. Gray, Town Clerk